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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,543	10/08/2003	David B. Cist	G0083-703919	7289

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EXAMINER

GREGORY, BERNARR E

ART UNIT PAPER NUMBER

3662

DATE MAILED: 09/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,543

Applicant(s)

CIST, DAVID B.

Examiner

Bernarr E. Gregory

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2 and 4-14 is/are allowed.
- 6) ☒ Claim(s) 15-17 is/are rejected.
- 7) ☒ Claim(s) 3 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1. Dependent claim 3 is objected to under 37 CFR §1.75(a) due to the improper use of a parenthetical on line 3 of the claim.

At the end of line 3 of claim 3, the use of the parenthetical "(time)" makes the claim indefinite and unclear in that it cannot be readily ascertained if or how the parenthetical matter modifies the claim language. Correction is hereby **required**. Claim 3 would be allowable upon this correction.

2. Dependent claim 16 is objected to under 37 CFR §1.75(c) in that there is a typographical error in the dependency of the claim.

A typographical error on line 1 of claim 16 makes the claim mistakenly depend from nonexistent claim 155. Correction is hereby **required** to correct the dependency of claim 16. Claim 16 would be allowable upon this correction.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. The Specification is objected to under 37 CFR §1.71 in that it fails to teach adequately how to make and to use the invention as claimed in claims 15-17.

Independent claim 15 is set forth as an apparatus claim, but it only sets forth a single claim element: "a control unit" (line 2). Thus, claim 15 is a single-means or single-element claim, and so is not adequately disclosed in the Specification. Further, dependent claims 16 and 17 do not add additional means or structural elements to the one element claimed in claim 15 (i.e., "a control

unit"). Please see MPEP 2164.08(a), citing In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983).

5. Claims 15-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Please see the remarks in section 4 above discussing claims 15-17 as single-means or single-element claims.


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The examiner-cited prior art is of interest for showing systems and methods that are similar to Applicant's invention; however, none of the cited prior art appears to show method or apparatus using "effective penetration limit" to determine "electrical properties" of the transmission medium.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr E. Gregory whose telephone number is (703) 306-5765. The examiner can normally be reached on weekdays from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza, can be reached on (703) 306-4171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bernarr E. Gregory
Primary Examiner
Art Unit 3662